in regard to property held by the trustee or such claimants are "controversies arising in bankruptcy proceedings." *Hewit* v. *Berlin Machine Works*, 194 U. S. 296. In matters of review and appeal this distinction is fundamental. *First Nat'l Bank* v. *Title & Trust Co.*, 198 U. S. 280. Appeals in "proceedings in bankruptcy" are governed solely by §§ 23, 24, 25 of the Bankruptcy Act. *Cook Inlet Coal Fields Co.* v. *Caldwell*, 147 Fed. 475. But in "controversies arising in bankruptcy proceedings" the appellate jurisdiction of the higher courts is the same as in other cases outside of bankruptcy. BANKRUPTCY ACT OF 1898, § 24 a. *Dodge* v. *Norlin*, 133 Fed. 363. A suit which raises the validity of both a creditor's claim and a lien incident thereto has been held to be a "proceeding in bankruptcy" proper. *Cunningham* v. *German Ins. Bank*, 103 Fed. 932. And the proceeding retains this character, though on the appeal, as in the present case, the lien is the only point in dispute. *Burow* v. *Grand Lodge*, 133 Fed. 708. But where the sole original claim is the enforcement of a lien, it is a "controversy arising in bankruptcy proceedings." *In re First Nat'l Bank*, 135 Fed. 62.

BANKRUPTCY — PROVABLE CLAIMS — CONTINGENT CLAIMS. — A father and son entered into an agreement whereby the son promised to pay $8000 to the father's estate five years after the father's death, and the father promised to leave the son certain property at his death. The son went bankrupt and the father attempted to prove his claim against the bankrupt estate. *Held*, that the claim is not provable, as the son's liability is contingent on the father's leaving him the property at death. *In re Hartman*, 166 Fed. 776 (Dist. Ct., N. D. Pa.).

Under the early English statutes contingent claims were not provable against a bankrupt estate. *Tully* v. *Sparkes*, 2 Ld. Raym. 1546. By special provisions in the federal Bankruptcy Acts of 1841 and 1867 proof of contingent claims was allowed. 5 U. S. STAT. 445; 14 *ibid.* 526. The mere fact alone that such a provision was omitted from the present act would seem to raise an implication that proof of such claims should not be allowed under it. See *Pirie* v. *Chicago Title & Trust Co.*, 182 U. S. 438, 448. Moreover, some courts in construing the section in the act defining claims which are provable have held that it expressly excludes contingent claims. *Goding* v. *Roscenthal*, 180 Mass. 43; *In re Chambers, Calder, & Co.*, 2 N. B. N. Rep. 864. But the trend of decision in the federal courts is that contingent claims, in certain circumstances, are provable as "claims on a contract express or implied." *Moch* v. *Market Street National Bank*, 107 Fed. 897; *In re Smith*, 146 Fed. 923. But even under the express provisions of the earlier acts claims which were dependent upon a contingency so uncertain as to make any calculation of their value practically impossible were not provable. *Riggin* v. *Magwire*, 15 Wall. (U. S.) 549. There has been a similar holding under the present act, which seems to sustain the principal case. *Dunbar* v. *Dunbar*, 190 U. S. 340.

BANKS AND BANKING — DEPOSITS — DRAWEE'S LIABILITY ON FORGED INDORSEMENT WHERE THERE IS FICTITIOUS PAYEE. — In pursuance of a fraudulent scheme, A, an employee of the plaintiff, obtained from the latter by false representations numerous checks in payment of goods supposed to have been bought of B, the payee. The plaintiff did not know that he was not indebted to B. A forged B's indorsements and secured payment from the defendant bank, on whom the checks were drawn. *Held*, that the bank must bear the loss. *Jordan Marsh Co.* v. *National Shawmut Bank*, 87 N. E. 740 (Mass.).

A drawee who pays a check on which the payee's indorsement is forged cannot charge the amount paid to the drawer's account, unless the latter is guilty of negligence which caused the payment. *Shipman* v. *Bank of New York*, 126 N. Y. 318; *First National Bank* v. *Whitman*, 94 U. S. 343. The reason for this rule lies in the relation between bank and depositor. The former may disburse only in conformity with the latter's directions, and payment of a check on a forged indorsement is, of course, unauthorized. *Harter* v. *Mechanics Bank*, 63 N. J. L. 578. In the present case the plaintiff's negligence

in failing to discover the fraud was not the proximate cause of the unauthorized payment. See *Crawford* v. *West Side Bank*, 100 N. Y. 50. The assumption that the payee was fictitious does not make the check payable to bearer, for the plaintiff was ignorant of this fact. MASS. REV. LAWS, c. 73, § 26. Nor upon this assumption is the drawee relieved of his duty to ascertain the genuineness of indorsements; for the likelihood of deception is not thereby increased. See *Armstrong* v. *National Bank*, 46 Oh. St. 512. The result reached is just, since, at the time of payment, the bank alone is in a position to detect the forgery.

CONFLICT OF LAWS — RECOGNITION OF FOREIGN JUDGMENT — SUBMISSION BY CONTRACT TO FOREIGN JURISDICTION. — By a clause in a contract between the plaintiff, a French subject, and the defendant, an English subject, the latter agreed that in case of breach the French tribunals alone should have jurisdiction. The defendant having committed a breach, the plaintiff brought an action in France. Service of the writ was in accordance with the French code, effected by leaving it at the office of the Procureur-Général. The writ was also sent to the French consulate in London, and the defendant notified at his residence there. The plaintiff recovered judgment by default and sued the defendant in England on this French judgment. *Held*, that the defendant is liable. *Jeannot* v. *Fuerst*, 25 T. L. R. 424 (Eng., K. B., March 19, 1909).

For a discussion of a similar case of jurisdiction by contractual consent, see 15 HARV. L. REV. 746; and for the general principles involved, see 20 *ibid.* 323.

CONSTITUTIONAL LAW — IMPAIRMENT OF THE OBLIGATION OF CONTRACT — CHANGE OF REMEDIES. — The United States recovered a judgment against the defendant city based on a contract payable from current taxes. At the time when the contract was made the property taxable was required to be assessed by the city recorder at its full value. Subsequently a state statute required all assessments to be made by a county assessor, whose assessments were to be reviewed, first by the county board, and next by the state board of equalization, and this assessment to be copied by the city recorder for city purposes. *Held*, that, as against the United States, the statute is void as impairing the obligation of its contract by a change of remedy. *City of Cleveland* v. *United States*, 166 Fed. 677 (C. C. A., Sixth Circ.).

For a discussion of the principles involved, see 19 HARV. L. REV. 133.

CONTEMPT — POWER TO PUNISH FOR CONTEMPT — WHETHER PROCEEDINGS TO PUNISH ARE CRIMINAL PROCEEDINGS. — An injunction was granted against members of a labor union restraining them from interfering with the business of the complainant. In a proceeding against the members of the union to punish them for contempt for a criminal conspiracy to violate the injunction, a deposition given by one of the defendants in answer to a subpœna *duces tecum* was offered as evidence. *Held*, that this is a criminal proceeding and therefore the deposition is inadmissible. *Hammond Lumber Co.* v. *Sailors' Union of the Pacific*, 167 Fed. 809 (C. C , N. D. Cal.).

Proceedings in contempt are of two classes, civil and criminal. When they are instituted by private individuals for the purpose of protecting or enforcing private rights, either by payment of a fine to the aggrieved party, or by attachment of the contemnor's property, they are remedial and civil in their nature. *Worden* v. *Searls*, 121 U. S. 14. When, however, as is usually the case, the proceedings are to protect and vindicate the power of the court, they are criminal. A wilful violation of a court's negative injunction is universally held to be a criminal contempt. See *Bullock Electric & Manufacturing Co.* v. *Westinghouse Electric & Manufacturing Co.*, 129 Fed. 105. And the fact that it has arisen in a civil action in no way tends to change the nature of the proceeding for its correction. *New Orleans* v. *Steamship Co.*, 20 Wall. (U. S.) 387. In any event contempt proceedings are always criminal in respect to one not a party to the original suit. *Bessette* v. *Conkey Co.*, 194 U. S. 324. So in all these